

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DARRELL B. HOUSE,

Plaintiff,

v.

Civ Case No. 22-0970 SCY/KK

NATIONAL PARK SERVICE, *et al*,

Defendants.

ORDER SETTING DEADLINE

THIS MATTER is before the Court *sua sponte* on review of the docket. On July 18, 2023, the Court entered an order delaying the entry of an Initial Scheduling Order until all defendants submitted their answers or responses. (Doc. 48.) As of October 27, 2023, all defendants in this case have filed answers or motions to dismiss. (Docs. 29, 58, 59.) In their Motion to Dismiss, Defendants Graden and Wineland assert they are entitled to dismissal of all individual capacity claims against them based on qualified immunity. (Doc. 59.)

“Qualified immunity is an entitlement not to stand trial or face the other burdens of litigation. The privilege is an immunity from suit rather than a mere defense to liability[.]” *Jiron v. City of Lakewood*, 392 F.3d 410, 414 (10th Cir. 2004) (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)) (quotation marks omitted); *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992) (citing *Siegert v. Gilley*, 500 U.S. 226, 231-33 (1991)). When a defendant asserts the defense of qualified immunity on a motion to dismiss, the district court should generally stay discovery until the immunity issue is resolved. *Workman*, 958 F.2d at 336. However, Defendants have not moved for a stay of discovery and the Court will not enter a stay *sua sponte*.

IT IS THEREFORE ORDERED that if Defendants Graden and Wineland intend to seek a stay of discovery pending resolution of their Motion to Dismiss asserting qualified immunity, they must file a Motion to Stay no later than **Monday, November 13, 2023**. The parties are advised that if no motion to stay or otherwise delay discovery is filed by this deadline, the Court will proceed with a scheduling conference to set discovery and other case management deadlines. *See* Fed. R. Civ. P. 16.

IT IS SO ORDERED.



KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE